

Notice of Allowability

Application No.

10/055,432

Examiner

Teresa E Strzelecka

Applicant(s)

LABAER ET AL.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed March 17, 2004.
2. ☒ The allowed claim(s) is/are 7, 48-62, 64, 65, 72, 73, 88-97, 99-117, 120-134.
3. ☒ The drawings filed on 22 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 17062002
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 26052004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

JEFFREY FREDMAN
PRIMARY EXAMINER

EXAMINER'S AMENDMENT

1. This office action is in response to an amendment filed March 17, 2004. Claims 1-95 were previously pending, with claims 1-6, 8-47, 66-71 and 74-87 withdrawn from consideration. Applicants cancelled claims 12-47 and 66-71 and added new claims 96-134. Claims 1-11, 48-65 and 72-134 are pending, with claims 1-6, 8-11 and 74-87 withdrawn from consideration. Claims 7, 48-65, 72, 73 and 88-134 will be examined.
2. Applicants' arguments overcame the following rejections: rejection of claims 7, 48-65 and 88-91 under 35 U.S.C. 103 (a) over Schultz and Wagner et al.; rejection of claims 72 and 73 under 35 U.S.C. 103 (a) over Schultz, Wagner et al. and Guegler et al. and rejection of claims 52 and 92-95 under 35 U.S.C. 103 (a) over Schultz, Wagner et al. and Wang et al.
3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ramon Tabtiang on May 26, 2004.

The application has been amended as follows:

Cancel claims 1-6, 8-11, 63, 74-87, 98, 118 and 119 without prejudice.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: Applicants' invention is drawn to a method of forming a protein array by translating nucleic acids encoding hybrid amino acid sequences attached to a plurality of addresses on a substrate. The hybrid amino acid sequence

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comprises a test amino acid sequence and an affinity tag, which, after translation, binds to a binding agent immobilized in the same address on a substrate.

The closest prior art reference, Carr et al. (WO 99/11777; cited in the IDS), teach translation of nucleic acids, encoding amino acid sequences and immobilized on a substrate, but do not teach attachment of the translated protein to a binding agent immobilized on the substrate together with the translated nucleic acid.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEFFREY FREDMAN
PRIMARY EXAMINER